

# Western Carolinian.

It is expedient to abstain from laws, which however wise and good in themselves, have the semblance of inequality which find no response in the heart of the citizen, and which will be regarded with little remorse.

Dr. Channing.

[BY BURTON CRAIG.]

SALISBURY, ROWAN COUNTY, N. C., MONDAY, JANUARY 21, 1906.

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## TERMS

The WESTERN CAROLINIAN is published once a week at two dollars per annum, if paid within three months; or two dollars and fifty cents, if paid at any other time within the year. No Paper will be discontinued until all arrearages are paid, unless at the Editor's discretion. No subscription will be received for a less time than one year.

A failure to notify the Editor of a wish to discontinue, one month before the expiration of a year, will be considered as a new engagement.

Any person procuring six solvent subscribers to the Carolinian, shall have a month paper gratis.

Advertising at the usual rates. All letters addressed to the Editor must be not paid or they will not be attended to.

These terms will be strictly adhered to.

## GENERAL ASSEMBLY.

### HOUSE OF COMMONS.

Thursday, Dec. 20.

The Speaker laid before the House a communication of the late Public Treasurer on the subject of prosecuting the suits against the sureties of the Public Treasurer, as compared with the written opinion of the State's counsel against a recovery; which resolutions, on motion of Mr. Outlaw, were sent to the Senate with a proposition to refer the same to a joint select committee.

Mr. Craig presented a bill to alter the time of holding the election in the town and borough of Salisbury; Mr. Mangum, a bill amendatory of an act passed in the year 1784, to regulate the descent of real estates, to do away entails, to make provision for widows, and to prevent frauds in the execution of last wills and testaments; which were read the first time and passed; and the last mentioned bill, on Mr. Townsend's motion, referred to the committee on the Judiciary.

Mr. Sumner, from the select committee, to whom the subject had been referred, reported sundry resolutions relating to a proposed Convention of the States of the Union for a revision of the Constitution; which were laid on the table.

The engrossed bill to provide for the registration of copies of grants for lands were read the third time, passed and ordered to be enrolled.

Friday, Dec. 21.

The bill to erect out of a portion of the counties of Burke and Buncombe, a separate and distinct county by the name of Yancey, was read the third time, passed and ordered to be engrossed—Yeas 63, Nays 60.

Mr. McNeil presented a bill to empower the Courts of Pleas and Quarter Sessions of this State to authorize the erection of gates across public roads within their respective counties; and Mr. Sumner, a bill to authorize the trial of titles to real estate, when the same shall come in question on petitions for partition. These bills were read the first time and passed; and the last named bill, on motion of Mr. Numan, referred.

The engrossed bill to repeal an act passed in the year 1880, to repeal part of the second section of an act passed in the year 1890, chapter 708, to revise the militia laws of this State, was read the third time and passed—Yeas 56, Nays 55.

Saturday, Dec. 22.

Mr. Polk presented a bill to alter the mode of appointing certain general and field officers of the militia of the State of North Carolina. This bill was read the first time, passed and referred.

The House resolved itself into a committee of the whole, Mr. Barringer in the Chair, on the bill fixing a uniform assessment of the real estate, with the improvements thereon. After some time spent therein, the Speaker resumed the Chair, and the Chairman reported the bill to the House with sundry amendments which were agreed to, and the bill, as amended, was, on motion of Mr. O'Brien, laid on the table.

Monday, Dec. 24.

The bill to establish the Bank of North Carolina was read the first time and passed—Mr. Long having moved that it be rejected, it was decided in the negative. Yeas 32, Nays 85.

Mr. Barringer presented a bill to establish the State Bank of North Carolina; Mr. Polk, a bill to establish a bank by the name and style of the Farmers' Bank of North Carolina; which were read the first time, and passed.

Mr. Eccles presented a bill to authorize the Commissioners of the Town of Fayetteville to borrow \$200,000 to be invested in stock of the Cape Fear and Yadkin Rail Road Company, etc.; which was read the first, second and third times, passed, and ordered to be engrossed—Yeas 84, Nays 32.

Mr. S. T. Sawyer presented the following resolutions:

Resolved, That the several States composing the United States of America are not united on the principle of unlimited submission to the General Government; and that by compact, under the title of a Constitution for the United States,

and of amendments thereto, they constitute a General Government for special purposes; delegated to that government certain defined powers, reserving each State to itself the residuary mass of right to their own self-government; and that whenever the General Government assumes un-delegated powers, it is an unauthorized, void act of no force; that this government, created by this compact, was not made the exclusive or final judge of the extent of the powers delegated to itself, since that would have made its discretion, and not the Constitution, the measure of its powers; but that as in all other cases of compact among parties having no common judge, each party has an equal right to judge for itself as well of infractions as of the mode and measure of redress.

Resolved, That this State considers the Federal Union, upon the terms and for the purposes specified in the compact, as conducive to the liberty and happiness of the several States; that it does not unequivocally declare its attachment to the Union, and to the compact agreeably to its obvious and real intentions, and will be among the last to seek its dissolution. That if the departments of the General Government be permitted to transgress the limits fixed by that compact by a total disregard of the special delegations of power therein contained an annihilation of the State Governments and the erection upon their ruins of a general consolidated government, will be the inevitable consequence. That the principle and construction contended for by sundry of the State Legislatures that General Government is the exclusive judge of the extent of the powers delegated to it, stop nothing short of despotism; since the discretion of those who administer the government, and not the Constitution, would be the measure of their powers. That the several States who formed that instrument, being sovereign and independent, have the unquestionable right to judge of the infraction; and that a Nolle prosequi by those sovereignties of unauthoritative acts done under color of that instrument, is the rightful remedy. That this State does, under the most deliberate consideration, declare that the Tariff Laws, passed not so much for the purposes of revenue, as to protect domestic manufactures, are in their opinion palpable violations of the said constitution; and however cheerfully it may be disposed to surrender its opinions to a majority of its sister States in matters of ordinary and doubtful policy, yet in momentous regulations like the present, which so vitally affect the best rights of the citizen, it would consider a silent acquiescence as highly criminal.

That although this State, as a party to the Federal compact, will bow to the laws of the Union; yet it does not at the same time declare that it will not now, or ever hereafter, cease to oppose in a constitutional manner every attempt, at what quarter soever offered, to violate the compact. And in order that no pretext or arguments may be drawn from a supposed acquiescence, on the part of this State, to the constitutionality of those laws, and be thereby used as precedents for similar future violations of the Federal Compact, this State does now enter against them its solemn protest.

Resolved further, That this Legislature, entertaining a deep interest and intense anxiety in the relations at present existing between the State of South Carolina and the General Government, do most distinctly declare that in all cases of collision, arising between the States and the Federal Government, it does not recognize any authority or right in the other to appeal to the sword as an arbiter to settle such controversy; and that the arms of the United States can never be employed to stay any State of the Union from the exercise of those legitimate powers which belong to her sovereign character; but that it regards an appeal to the Co States, the source of all power in cases of real doubt, amongst the most sacred of all obligations; and that this State will not tamely submit to the exercise of military coercion by the Federal Government against her sister State, South Carolina; but that it is respectfully recommended to both parties to suspend every form and manner of resistance until the disputed power can be submitted to all the States, convened in general Convention.

The foregoing resolutions were read and laid on the table.

Tuesday, Dec. 25.

The House, on motion of Mr. Spruill, adjourned until tomorrow morning, 10 o'clock—Yeas 74, Nays 25.

Wednesday, Dec. 26.

On motion of Mr. Clayton it was resolved that a message be sent to the Senate, proposing that the Legislature adjourn sine die on the 5th of January next—Yeas 87, Nays 16.

The Senate having concurred in the amendment of this House to the proposed bill to repeal an act passed in the year 1880, to repeal part of the second section of an act passed in the year 1890, chapter 708, to revise the militia laws of this State, the said bill was ordered to be enrolled.

Mr. G. A. Thompson, from the Committee on Claims, to whom was referred a resolution of favor of Fielding Slater, reported the same with an amendment.

Mr. Canelor presented the petition of sundry inhabitants of Lincoln County, praying an alteration in the laws relative to the duties of Sheriff; This bill was read the first time, passed and referred.

On motion of Mr. Pearson, the Senate and the Attorney General were instructed to take necessary proceedings for the purpose of ascertaining by a decision of the Supreme Court, whether the Cape Fear and Newbern Banks, in paying the tax required by law out of the profits of said banks before dividends are declared, have acted in pursuance of the proper construction of that part of their charters, which enacts that a tax of one per cent. shall be levied upon all the stockholders, etc., and whether the proper construction of their charters does not require that dividends should be first declared and that the tax should then be retained out of the dividends of the individual stockholders, so that the tax may be paid by the individual stockholders, and not by the bank.

Mr. Craig presented a resolution to instruct the Judiciary committee to inquire into the expediency of so amending the criminal laws of this State that no person should be compelled to pay the costs accruing from the attendance of witnesses necessary to his defence in any prosecution, whenever he shall be acquitted of the charge or charges preferred against him; and that they further inquire into the expediency of making the prosecutor pay costs; which was read and rejected.

The House then proceeded to take up the engrossed bill to establish the Bank of North Carolina; which, after undergoing sundry amendments, passed the second reading—Yeas 64, Nays 61.

Friday, Dec. 28.

Received from the Governor a communication, enclosing resolutions recently adopted by the Legislature of Pennsylvania relative to the Union, and forwarded by the Governor of that State.

Mr. Polk, from the committee on military affairs, to whom was referred the bill to alter the mode of appointing certain general and field officers of the militia of the State reported the same without amendment.

Mr. Pearson called up for consideration the bill to provide for taking the votes of the people for or against certain amendments to the Constitution; which, on its motion, was laid on the table until the third Monday in November next.

The following engrossed bill passed its third reading, and was ordered to be enrolled; the bill to repeal in part an act, passed in the year 1826, to repeal an act, passed in the year 1820, directing the county courts to pay fees to certain officers therein named in certain cases, so far as relates to the counties mentioned in this act.

Saturday, Dec. 29.

Mr. McLeod, from the committee on Agriculture, to whom was referred the bill making the owners of dogs liable for the value of sheep that they kill or otherwise injure, reported the same with sundry amendments.

Mr. Edmonston presented a bill to repeal an act, passed in the year 1818, Chapter 970, fixing the sum hereafter to be paid to the State for vacant lands. Read the first time and passed.

The bill making appropriations for public roads, was read, and on motion of Mr. J. B. Jones, indefinitely postponed.

Mr. Shepherd, on the first reading of the bill to reduce the salary of the Supreme Court Judges of North Carolina, moved that it be rejected; which was decided in the negative—Yeas 45, Nays 72.

Monday, Dec. 31.

Mr. Townsend, from the committee on Propositions and Grievances, reported favorably upon the petition from Orange County, praying that slaves be prohibited from attending elections and masters.

Mr. Eccles, from the committee on the Judiciary, reported a bill to amend the 10th section of the act of 1741, for the better observation of the Lord's day, etc. and also a bill to render the land of a deceased debtor liable for the costs where the plea of fully administered has been found in favor of his Executor or administrator; which were read the first time and passed.

Mr. Eccles, from the same committee, made an adverse report on the bill to amend an act, passed in the year 1822, for the relief of debtors for debts, which may be contracted after the first day of May next; also on the bill requiring warrants issued by Justices of the peace in civil cases to be returned in the district in which the defendant may reside; also on the resolution instructing him to inquire into the propriety of so amending the law relative to executors and administrators, as to require them in all cases of insolvent estates to make reasonable payment on all claims against the estate of their testator or intestate, and also on the resolution instructing them to inquire whether any, or if any, what provisions are necessary to be made in our law for the relief of insolvents, as to insolvent persons when insolvent, to be discharged from imprisonment, when imprisoned for fines for non attendance in court and returns.

Mr. Daniel, from the committee on the Judiciary, to whom was referred the bill to prevent protracted litigation by enlarging the jurisdiction of Justice of the Peace out

of court, made an adverse report thereon. The bill to establish the Merchants' Bank in Newbern was read the third time and rejected—Yeas 53, Nays 69.

Tuesday, Jan. 1.

Mr. Craig, from the committee on the Judiciary, reported a bill to amend the several provisions in this State to license slaves and free persons of color to preach, pray or exert in public in certain cases.

Mr. O'Brien moved that the House reconsider their vote of yesterday respecting the bill to establish the Merchants' Bank in Newbern; which was agreed to, and the bill laid on the table.

The bill to establish the Bank of North Carolina, was read the third time and rejected—Yeas 53, Nays 68.

SENATE.

Wednesday, Jan. 2.

Mr. Montgomery, of Orange, presented a bill to establish the Bank of North Carolina; which was read the first time and passed.

Thursday, Jan. 3.

The bill to amend an act for the division of Rowan county, passed in 1832, was read the third time and rejected.

Friday, Jan. 4.

Mr. Williams, from the committee on Education and the Literary Fund, to whom was referred the resolution instructing them to inquire into the expediency of establishing by law a Central School in the State of North Carolina, for the purpose of educating and preparing instructors of elementary schools for their profession, reported that in the opinion of the committee the state of the Literary fund at present would not justify the establishment of such schools at the present time, and asking to be discharged from the further consideration of the subject. Concurred in.

Mr. Williams, from the select committee to whom was referred the several memorials from various sections of the State, praying for the location of Bank capital at the various sections of the State, therein mentioned, made a report thereon, stating that in the opinion of the committee it is impracticable to carry the prayer of the memorialists into effect at this time, etc. Concurred in.

The resolution to adjourn sine die on Saturday, the fifth of January, was rescinded by a vote of 29 to 21.

The Senate, on motion of Mr. Spaight, went into a committee of the whole, Mr. Whitaker in the Chair, on the bill to establish the Bank of North Carolina; and, after some time spent therein, the Speaker resumed the Chair, and the Chairman reported the bill with sundry amendments; which were concurred in. Whereupon the said bill was read the second time, and being again amended, on motion of Mr. Allison, was passed.

Saturday, Jan. 5.

The bill to establish the Bank of North Carolina was read the third time, amended and ordered to be engrossed—Yeas 33, Nays 21.

Yeas—Messrs. Allison, Bell, Brittain, Carter, Cowper, Dishough, Gavin, Hall, Harrison, Hinton, Hogan, Hoke, Houston, Hussey, Lamb, Lilly, Martin, Massey, Matthews, Moffit, Montgomery of H. Montgomery of O. Moore, Morris, Parham, Parker, Skinner, Spencer, Steadman, Tyson, Vanhook, Wellborn, Wilson.

Nays—Messrs. Askew, Bailey, Batesman, Boddie, Bullock, Dobson, Faison, Hawkins, Howell, Latham, Lindsey, Melvin, Moye of G. Moye of P. Ray, Rhodes, Seawell, Spaight, Toomer, Wilder, Williams.

Monday, Jan. 7.

The engrossed bill providing for the encouragement of education, was read the second time and rejected—Yeas 14, Nays 32.

Tuesday, Jan. 8.

The engrossed bill to empower the County Courts of the several counties within this State to authorize the erection of gates across public roads within their respective counties, was read the second time, and on motion of Mr. Wilson, indefinitely postponed.

The engrossed bill concerning the Board of Internal Improvements, was read the second time and rejected.

Mr. Seawell presented a resolution to entitle Governor David L. Swain, late one of the Judges of the Superior Court of Law and Equity, to receive compensation as if he had attended and held all the courts in his circuit during the last fall; which was read and rejected.

Wednesday, Jan. 9.

The resolutions of the Georgia Legislature, concerning the calling a convention of the people of the United States, and denouncing the exercise of powers assumed by Congress in appropriating money for the purpose of Internal Improvements, were concurred in. Mr. Williams, from the committee on the Judiciary, reported the bill to establish the Merchants' Bank in the town of Newbern, was, on motion of Mr. Bell, postponed until the third Monday in November next—Yeas 36, Nays 14.

## HOUSE OF COMMONS.

Wednesday, Jan. 2.

Mr. Daniel, from the committee on the Judiciary, to whom the subject was referred

and reported a bill for an act to amend the last Legislature's act, chapter 40, to regulate relations of apprentices; which was read the first time and passed.

Mr. Davidson, from the select committee on the affairs of the Cherokee Indians, reported a bill concerning the Cherokee Territory; which was read the first time and passed. Mr. Edmonston, on behalf of the minority of said committee, presented a counter report; which was read and laid on the table.

The House then resolved itself into a committee of the whole, Mr. Barringer in the Chair, on the engrossed resolutions declaring the attachment of the Legislature to the constitution of the United States; and after some time spent therein, the Speaker resumed the Chair, and the Chairman reported the same without amendment. The three first resolutions were then severally read and passed; and the fourth being under consideration, and amended, on motion of Mr. Polk, by inserting the word "as" after the word "affiliation," the House adjourned.

Thursday, Jan. 3.

Mr. Barringer, from the committee on the Judiciary, to whom was referred the bill to prevent the unlawful carrying away and removal of slaves, reported the same with sundry amendments.

Mr. Hill moved that the House now proceed to take up the resolutions declaring the attachment of the Legislature to the constitution of the United States; and the fourth resolution, in the following words as amended, was read: "Resolved, That the doctrine of nullifications, avowed by the State of South Carolina, and lately promulgated in an ordinance, is revolutionary in its character, subversive of the constitution of the United States, and leads to a dissolution of the Union;" which was also adopted—Yeas 93, Nays 22.

Yeas—Messrs. Abernathy, Allison, Arrington, Baker, Barringer, Blowe, Boddie, Bragg, Brower, Burgin, Burns, Candler, Carter, Clayton, Cloman, Courts, Cromwell, Cunningham, Cuthbertson, Daniel, Davidson, Dockery, Doherty, Eccles, Edmonston, Enloe, Faison, Gillespie, Glass, Grady, Graves, Gwynn, Hammond, Harrison, Harper, Hart, Hartly, Hill, Hinton, Horton, Hurst, Ivon, Jarvis, J. B. Jones, R. Jones, Jordan, Judkins, Laspeyre, Lee, Ledford, Little, Locke, Loudermilk, Lyon, Mangum, Marshall, Maultsby, Montgomery, Murray, McCleese, McLaurin, McLeod, McMillan, Nelson, Parke, Peoples, Poindexter, Polk, Potts, Rand, Relfe, Ridley, Roberts, Settle, Shepherd, Sherwood, Skinner, Sloan, Smith, Spruill, Stallings, Stephens, Sumner, Thomas, G. A. Thompson, Tillet, Wadsworth, Ward, Watson, Weaver, Welch, Willey, Wiseman, Witchee, A. W. Wooten, Word, Ziglar.

Nays—Messrs. Clark, Craig, Dews, Faddis, Gee, Guthrie, Irvine, Lancaster, Long, McMillan, Norman, Outlaw, O'Brien, Pierce, S. T. Sawyer, Simmons, L. Thompson, Townsend, Tunstall, Waddell, Whitaker, Word, Ziglar.

The fifth resolution, was amended, on Mr. Mangum's motion, by striking out the word "an" before the word "adjustment," and inserting the words "a peaceable," and adopted—Yeas 111, Nays 1. Mr. Clark voted alone in the negative.

Among the many proposed amendments to the resolutions made by different gentlemen, and which were rejected, Mr. Townsend moved to insert the following resolution, immediately after the fifth: "That this Legislature doth most solemnly protest against the use of force by the General Government against the State of South Carolina."

The votes on the adoption of this amendment, were 18 to 80.

Yeas—Messrs. Abernathy, Adams, Arrington, Baker, Barringer, Boddie, Brower, Burgin, Candler, Carter, Clark, Clayton, Cloman, Courts, Craig, Cunningham, Cuthbertson, Davidson, Dews, Dockery, Doherty, Edmonston, Enloe, Gillespie, Glass, Grady, Graves, Guthrie, Gwynn, Hardison, Hart, Hartley, Hill, Hinton, Irvine, Jarvis, J. B. Jones, R. Jones, Jordan, Laspeyre, Lee, Ledford, Little, Locke, Loudermilk, Lyon, Mangum, Marshall, Maultsby, Montgomery, Murray, McCleese, McLaurin, McLeod, McMillan, Nelson, Parke, Peoples, Poindexter, Potts, Rand, Relfe, Ridley, Roberts, Settle, Sherwood, Skinner, Sloan, Smith, Stallings, Stephens, G. A. Thompson, Tillet, Watson, Weaver, Welch, Witchee, A. W. Wooten, Word, Ziglar.

Nays—Messrs. Allison, Blowe, Cromwell, Eccles, Edmonston, Faddis, Faison, G. A. Harper, Horton, Ivon, Judkins, Lancaster, Ledford, Little, Lyon, Mangum, Maultsby, Montgomery, McCleese, McMillan, Norman, Outlaw, Potts, R. Jones, Potts, Relfe, Settle, Smith, Stallings, Stephens, Thomas, Tillet, Townsend, Word, Ziglar.

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Nays—Messrs. Askew, Bailey, Batesman, Boddie, Bullock, Dobson, Faison, Hawkins, Howell, Latham, Lindsey, Melvin, Moye of G. Moye of P. Ray, Rhodes, Seawell, Spaight, Toomer, Wilder, Williams.

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